

111TH CONGRESS
1ST SESSION

S. 49

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. LEAHY (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Corruption
5 Prosecution Improvements Act”.

6 **SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SE-**
7 **RIOUS PUBLIC CORRUPTION OFFENSES.**

8 (a) IN GENERAL.—Chapter 213 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 3299A. Corruption offenses**

2 “Unless an indictment is returned or the information
3 is filed against a person within 6 years after the commis-
4 sion of the offense, a person may not be prosecuted, tried,
5 or punished for a violation of, or a conspiracy or an at-
6 tempt to violate the offense in—

7 “(1) section 201 or 666;

8 “(2) section 1341 or 1343, when charged in
9 conjunction with section 1346 and where the offense
10 involves a scheme or artifice to deprive another of
11 the intangible right of honest services of a public of-
12 ficial;

13 “(3) section 1951, if the offense involves extor-
14 tion under color of official right;

15 “(4) section 1952, to the extent that the unlaw-
16 ful activity involves bribery; or

17 “(5) section 1962, to the extent that the racket-
18 eering activity involves bribery chargeable under
19 State law, involves a violation of section 201 or 666,
20 section 1341 or 1343, when charged in conjunction
21 with section 1346 and where the offense involves a
22 scheme or artifice to deprive another of the intan-
23 gible right of honest services of a public official, or
24 section 1951, if the offense involves extortion under
25 color of official right.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 213 of title 18, United States
 3 Code, is amended by adding at the end the following:

“3299A. Corruption offenses.”.

4 (c) APPLICATION OF AMENDMENT.—The amend-
 5 ments made by this section shall not apply to any offense
 6 committed before the date of enactment of this Act.

7 **SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES**
 8 **TO LICENCES AND OTHER INTANGIBLE**
 9 **RIGHTS.**

10 Sections 1341 and 1343 of title 18, United States
 11 Code, are each amended by striking “money or property”
 12 and inserting “money, property, or any other thing of
 13 value”.

14 **SEC. 4. VENUE FOR FEDERAL OFFENSES.**

15 (a) IN GENERAL.—The second undesignated para-
 16 graph of section 3237(a) of title 18, United States Code,
 17 is amended by adding before the period at the end the
 18 following: “or in any district in which an act in further-
 19 ance of the offense is committed”.

20 (b) SECTION HEADING.—The heading for section
 21 3237 of title 18, United States Code, is amended to read
 22 as follows:

1 **“§ 3237. Offense taking place in more than one dis-**
 2 **trict”.**

3 (c) TABLE OF SECTIONS.—The table of sections at
 4 the beginning of chapter 211 of title 18, United States
 5 Code, is amended so that the item relating to section 3237
 6 reads as follows:

“3237. Offense taking place in more than one district.”.

7 **SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RE-**
 8 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

9 Section 666(a) of title 18, United States Code, is
 10 amended—

11 (1) in paragraph (1)(B), by—

12 (A) striking “anything of value” and in-
 13 serting “any thing or things of value”; and

14 (B) striking “of \$5,000 or more” and in-
 15 serting “of \$1,000 or more”;

16 (2) by amending paragraph (2) to read as fol-
 17 lows:

18 “(2) corruptly gives, offers, or agrees to give
 19 any thing or things of value to any person, with in-
 20 tent to influence or reward an agent of an organiza-
 21 tion or of a State, local or Indian tribal government,
 22 or any agency thereof, in connection with any busi-
 23 ness, transaction, or series of transactions of such
 24 organization, government, or agency involving any-
 25 thing of value of \$1,000 or more;”;

1 (3) in the matter following paragraph (2), by
2 striking “ten years” and inserting “15 years”.

3 **SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.**

4 Section 641 of title 18, United States Code, is
5 amended by striking “ten years” and inserting “15
6 years”.

7 **SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.**

8 Section 201(b) of title 18, United States Code, is
9 amended by striking “fifteen years” and inserting “20
10 years”.

11 **SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN**
12 **PUBLIC CORRUPTION RELATED OFFENSES.**

13 (a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—
14 Section 602(a) of title 18, United States Code, is amended
15 by striking “three years” and inserting “10 years”.

16 (b) PROMISE OF EMPLOYMENT FOR POLITICAL AC-
17 TIVITY.—Section 600 of title 18, United States Code, is
18 amended by striking “one year” and inserting “10 years”.

19 (c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL
20 ACTIVITY.—Section 601(a) of title 18, United States
21 Code, is amended by striking “one year” and inserting
22 “10 years”.

23 (d) INTIMIDATION TO SECURE POLITICAL CON-
24 TRIBUTIONS.—Section 606 of title 18, United States

1 Code, is amended by striking “three years” and inserting
 2 “10 years”.

3 (e) SOLICITATION AND ACCEPTANCE OF CONTRIBU-
 4 TIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title
 5 18, United States Code, is amended by striking “3 years”
 6 and inserting “10 years”.

7 (f) COERCION OF POLITICAL ACTIVITY BY FEDERAL
 8 EMPLOYEES.—Section 610 of title 18, United States
 9 Code, is amended by striking “three years” and inserting
 10 “10 years”.

11 **SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF**
 12 **PUBLIC MONEY OFFENSE.**

13 Section 641 of title 18, United States Code, is
 14 amended by inserting “the District of Columbia or” before
 15 “the United States” each place that term appears.

16 **SEC. 10. ADDITIONAL RICO PREDICATES.**

17 (a) IN GENERAL.—Section 1961(1) of title 18,
 18 United States Code, is amended—

19 (1) by inserting “section 641 (relating to em-
 20 bezzlement or theft of public money, property, or
 21 records),” after “473 (relating to counterfeiting),”;
 22 and

23 (2) by inserting “section 666 (relating to theft
 24 or bribery concerning programs receiving Federal

1 funds),” after “section 664 (relating to embezzle-
 2 ment from pension and welfare funds),”.

3 (b) CONFORMING AMENDMENTS.—Section
 4 1956(c)(7)(D) of title 18, United States Code, is amend-
 5 ed—

6 (1) by striking “section 641 (relating to public
 7 money, property, or records),”; and

8 (2) by striking “section 666 (relating to theft
 9 or bribery concerning programs receiving Federal
 10 funds),”.

11 **SEC. 11. ADDITIONAL WIRETAP PREDICATES.**

12 Section 2516(1)(c) of title 18, United States Code,
 13 is amended by inserting “section 641 (relating to embez-
 14 zlement or theft of public money, property, or records),
 15 section 666 (relating to theft or bribery concerning pro-
 16 grams receiving Federal funds),” after “section 224 (brib-
 17 ery in sporting contests),”.

18 **SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATU-**
 19 **ITIES.**

20 Section 201(c)(1) of title 18, United States Code, is
 21 amended—

22 (1) by striking the matter before subparagraph
 23 (A) and inserting “otherwise than as provided by
 24 law for the proper discharge of official duty, or by
 25 rule or regulation—”;

1 (2) in subparagraph (A), by inserting after
 2 “, or person selected to be a public official,” the fol-
 3 lowing: “for or because of the official’s or person’s
 4 official position, or for or because of any official act
 5 performed or to be performed by such public official,
 6 former public official, or person selected to be a pub-
 7 lic official”; and

8 (3) in subparagraph (B), by striking all after
 9 “, anything of value personally,” and inserting “for
 10 or because of the official’s or person’s official posi-
 11 tion, or for or because of any official act performed
 12 or to be performed by such official or person;”.

13 **SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.**

14 Section 201(a)(3) of title 18, United States Code, is
 15 amended to read as follows:

16 “(3) the term ‘official act’ means any action
 17 within the range of official duty, and any decision or
 18 action on any question, matter, cause, suit, pro-
 19 ceeding or controversy, which may at any time be
 20 pending, or which may by law be brought before any
 21 public official, in such public official’s official capac-
 22 ity or in such official’s place of trust or profit. An
 23 official act can be a single act, more than one act,
 24 or a course of conduct.”.

1 **SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIB-**
 2 **ERY.**

3 Section 201 of title 18, United States Code, is
 4 amended—

5 (1) in subsection (b), by striking “anything of
 6 value” each place it appears and inserting “any
 7 thing or things of value”; and

8 (2) in subsection (c), by striking “anything of
 9 value” each place it appears and inserting “any
 10 thing or things of value”.

11 **SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUC-**
 12 **TION OF JUSTICE PROCEEDINGS.**

13 (a) IN GENERAL.—Section 1512(i) of title 18, United
 14 States Code, is amended by striking “A prosecution under
 15 this section or section 1503” and inserting “A prosecution
 16 under this chapter”.

17 (b) PERJURY.—

18 (1) IN GENERAL.—Chapter 79 of title 18,
 19 United States Code, is amended by adding at the
 20 end the following:

21 **“§ 1624. Venue**

22 “A prosecution under this chapter may be brought
 23 in the district in which the oath, declaration, certificate,
 24 verification, or statement under penalty of perjury is made
 25 or in which a proceeding takes place in connection with

1 the oath, declaration, certificate, verification, or state-
2 ment.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of chapter 79 of title 18,
5 United States Code, is amended by adding at the
6 end the following:

“1624. Venue.”.

7 **SEC. 16. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO**
8 **INVESTIGATE AND PROSECUTE PUBLIC COR-**
9 **RUPTION OFFENSES.**

10 There are authorized to be appropriated to the Of-
11 fices of the Inspectors General and the Department of
12 Justice, including the United States Attorneys’ Offices,
13 the Federal Bureau of Investigation, and the Public Integ-
14 rity Section of the Criminal Division, \$25,000,000 for
15 each of the fiscal years 2009, 2010, 2011, and 2012, to
16 increase the number of personnel to investigate and pros-
17 ecute public corruption offenses including sections 201,
18 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346,
19 and 1951 of title 18, United States Code.

20 **SEC. 17. AMENDMENT OF THE SENTENCING GUIDELINES**
21 **RELATING TO CERTAIN CRIMES.**

22 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
23 suant to its authority under section 994(p) of title 28,
24 United States Code, and in accordance with this section,
25 the United States Sentencing Commission shall review and

1 amend its guidelines and its policy statements applicable
2 to persons convicted of an offense under sections 201, 641,
3 and 666 of title 18, United States Code, in order to reflect
4 the intent of Congress that such penalties be increased
5 in comparison to those currently provided by the guide-
6 lines and policy statements.

7 (b) REQUIREMENTS.—In carrying out this section,
8 the Commission shall—

9 (1) ensure that the sentencing guidelines and
10 policy statements reflect Congress' intent that the
11 guidelines and policy statements reflect the serious
12 nature of the offenses described in subsection (a),
13 the incidence of such offenses, and the need for an
14 effective deterrent and appropriate punishment to
15 prevent such offenses;

16 (2) consider the extent to which the guidelines
17 may or may not appropriately account for—

18 (A) the potential and actual harm to the
19 public and the amount of any loss resulting
20 from the offense;

21 (B) the level of sophistication and planning
22 involved in the offense;

23 (C) whether the offense was committed for
24 purposes of commercial advantage or private fi-
25 nancial benefit;

1 (D) whether the defendant acted with in-
2 tent to cause either physical or property harm
3 in committing the offense;

4 (E) the extent to which the offense rep-
5 resented an abuse of trust by the offender and
6 was committed in a manner that undermined
7 public confidence in the Federal, State, or local
8 government; and

9 (F) whether the violation was intended to
10 or had the effect of creating a threat to public
11 health or safety, injury to any person or even
12 death;

13 (3) assure reasonable consistency with other
14 relevant directives and with other sentencing guide-
15 lines;

16 (4) account for any additional aggravating or
17 mitigating circumstances that might justify excep-
18 tions to the generally applicable sentencing ranges;

19 (5) make any necessary conforming changes to
20 the sentencing guidelines; and

21 (6) assure that the guidelines adequately meet
22 the purposes of sentencing as set forth in section
23 3553(a)(2) of title 18, United States Code.

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